

New Points of Order in the Conference Agreement on the Republican Budget Resolution

The conference agreement on the Republican resolution contains several new points of order relating to consideration of spending and tax legislation. These new points of order, however, will have an impact on budget decision making *only if* Congress is willing to enforce them. For instance, last year's House appropriations were considered under rules waiving all points of order. In addition, last year's conference agreement on the budget contained a Senate point of order against emergency designations similar to the point of order in this year's conference agreement. Nonetheless, that point of order was not raised in the Senate against any of last year's appropriations bills, even though those bills contained an unprecedented amount of emergency designations.

Following is an outline of the new points of order in the conference agreement. All of the points of order are permanent unless indicated otherwise.

- ***Social Security Surplus Lock-Box Enforcement in the House and Senate*** — A Social Security lock-box point of order applies in the House and Senate against consideration of revisions to the 2001 conference agreement on the Republican budget resolution or 2002 budget resolutions (including conference reports or amendments thereon) that set forth an on-budget deficit for any fiscal year. The point of order does not apply if real economic growth is below one percent for both the most recently reported quarter and the immediately preceding quarter. In addition, the point of order does not apply if there is a declaration of war. In the Senate, the point of order may be waived or suspended only by a three-fifths vote.
- ***Debt Reduction Lock-Box Enforcement in the House*** — A debt reduction lock-box point of order applies in the House against consideration of reported legislation, including amendments and conference reports thereon, that would reduce the 2001 surplus below the level set forth in this conference agreement. The surplus level is to be revised for emergency designations, international arrearage payments, and other allowable adjustments pursuant to section 314 of the Congressional Budget Act.
- ***Directed Scorekeeping Point of Order in the House*** — A directed scorekeeping point of order applies in the House against consideration of reported legislation, including amendments or conference reports thereon, that direct CBO or OMB to score discretionary funding in a general appropriations bill in a specified way. This point of order is effective for the 106th Congress only.

- ***Advance Appropriations Point of Order in the House***— A House advance appropriations point of order applies against consideration of reported general appropriations legislation, including amendments or conference reports thereon, that would cause the total level of discretionary advance appropriations for 2002 or for any subsequent year to exceed \$23.5 billion, the amount of the 2001 advance appropriations. This point of order applies for the 106th Congress only.
- ***Advance Appropriations Point of Order in the Senate*** — A Senate advance appropriations point of order applies against consideration of any legislation that appropriates new budget authority in excess of \$23.5 billion for 2002 or any subsequent fiscal year and appropriates new budget authority for fiscal years that are two years or more beyond the budget year. This point of order may be waived or suspended only by a three-fifths vote and expires October 1, 2002.
- ***Delayed Obligations Point of Order in the Senate*** — A Senate delayed obligations point of order applies against consideration of any legislation, including amendments and conference reports thereon, that contains an appropriation of new budget authority for any fiscal year that does not become available upon enactment of such legislation or the first day of the fiscal year, whichever is later. This point of order does not apply to defense appropriations or, apparently, to appropriations that customarily have delayed obligations. This point of order may be waived or suspended only by a three-fifths vote and expires October 1, 2002.
- ***Precatory Amendments Point of Order in the Senate*** — A Senate precatory amendment point of order applies to all future floor amendments to budget resolutions that are “predominately” precatory. Examples are amendments that add or modify Sense of Senate or Sense of Congress language.
- ***Emergency Designation Point of Order in the Senate*** — A Senate emergency designation point of order applies against consideration of any non-defense emergency designation in a bill, resolution, amendment, motion, or conference report. This point of order may be waived or suspended only by a three-fifths vote. If the point of order is sustained, the emergency designation, but not the funding, is stricken and may not be offered as an amendment on the floor.
- ***Justification of Emergency Designation Point of Order in the Senate*** — The conference agreement provides that all Senate committee reports and statements of managers accompanying defense and non-defense emergency designations shall include the following: 1) an analysis of whether the emergency meets specified criteria of being necessary, sudden, urgent, unforeseen, and temporary; and 2) a written justification of why the provision should

be accorded emergency status if the analysis concludes the criteria are not met. A point of order against consideration of the legislation is implied if the accompanying reports fail to meet these requirements. This point of order applies *in addition to* the Senate emergency designation point of order that applies against all non-defense emergency designations. The Senate emergency justification point of order may be waived or suspended only by a three-fifths vote.

- ***Defense and Non-Defense Firewall Point of Order in the Senate*** — The conference agreement establishes defense and non-defense discretionary spending limits in the Senate for 2001. For defense discretionary spending, the spending limit is \$310.8 billion in new budget authority and \$297.7 billion in outlays. For non-defense discretionary spending, the spending limit is \$289.5 billion in new budget authority and \$327.43 billion in outlays.

A Senate firewall point of order applies against consideration of legislation that exceeds either the defense or non-defense discretionary spending limits. This point of order may be waived or suspended only by a three-fifths vote. The point of order does not apply if there is a declaration of war.